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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND
ADR

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11 Attorneys for Promotopia, Inc.
12 Plaintiff

13
14 IN THE UNITED STATES DISTRICT COURT
15
16 NORTHERN DISTRICT OF CALIFORNIA

17 Promotopia, Inc., a California
18 Corporation,

19 Plaintiff,

20 vs.

21 Great American Opportunities, Inc., a
22 Tennessee Corporation,

23 Defendant.

Case No.:

C08-01967

COMPLAINT FOR PATENT
INFRINGEMENT AND DEMAND FOR
JURY TRIAL

Date:
Time:
Dept:
Hon. Judge:

Trial Date: none

24 NOW COMES Plaintiff, Promotopia, Inc., through its attorneys, and for its Complaint
25 states as follows:

JURISDICTION AND VENUE

- 26 1. This is a civil action for patent infringement arising under the patent laws of the United
27 States, 35 U.S.C § 271, et seq. This court has subject matter jurisdiction of the case
28 pursuant to the laws as set forth in Title 28 of the United States Code, and particularly, 28
U.S.C. §§ 1331, 1332(a) and 1338(a). Venue is proper in this judicial district under 28
U.S.C. §§ 1391(b), (c) and 1400(b).

2. This Court has personal jurisdiction of Great American Opportunities, Inc. since it has conducted systemic and continuous business in California and has purposefully directed its activities to California.

3. Venue is proper in the Northern District of California under 28 U.S.C. § 1391 (b)(2) because a substantial part of the events giving rise to this action occurred in this district.

PARTIES

4. Plaintiff Promotopia, Inc. ("Promotopia") is a corporation organized under the laws of the State of California having its principal place of business at 954 Robin Lane, Campbell, California, 95008.

5. On information and belief, Defendant Great American Opportunities, Inc., is a privately held corporation, having its principal place of business at PO Box 305142, Nashville, TN, 37230-5142 and doing business within this judicial district through the Internet at (<http://www.gafundraising.com/index.php>), and through its sales representatives.

CLAIM FOR RELIEF OF PATENT INFRINGEMENT

6. On January 11, 2005, United States Patent No. D500,657, entitled CD Opener and Single Sheet Paper Cutter, was duly and legally issued to inventor Thomas John Scimone. A copy of the '657 patent is attached hereto as **Exhibit "A"**.

7. Promotopia, Inc. is the owner of the '657 patent, (including the right to sue for past infringements) by assignment from the inventor and on that basis has standing to sue thereon.

8. Defendant has infringed, and still is infringing, the '657 patent by importing, and offering for sale, or selling certain products, including a paper cutter, which infringes the claim of the subject patent. A photocopy of the infringing cutter obtained from Defendant's web site, <http://store.gafundraising.com/Store.aspx?ur=15&iid=3133&cid=0>, is attached

1 hereto as **Exhibit "B"**. Defendant has engaged in these activities within this District, and
2 elsewhere within the United States, without the consent of Plaintiff, and will continue to
3 do so unless enjoined by this Court.

4
5 9. Promotopia has provided actual notice of the '657 patent and Defendant's infringement
6 thereof to Defendant.

7 10. Upon information and belief, Defendant continues to offer for sale, and sell the infringing
8 paper cutter, and therefore its infringement of the '657 patent has been willful and
9 wanton.

10 11. Defendant's infringement of the '657 patent has irreparably damaged Promotopia, and
11 will cause added injury and loss unless enjoined by the Court.

12 **DEMAND FOR RELIEF**

13 WHEREFORE, Promotopia asks this Court to:

- 14 (a) enter judgment for Promotopia on this Complaint;
- 15 (b) enter a preliminary and permanent injunction to enjoin Defendant and those in
16 privity with or acting in concert with Defendant from further infringement of the
17 '657 patent during the remainder of the term for which the patent has been
18 granted in accordance with 35 U.S.C. § 283;
- 19 (c) award damages against Defendant adequate to compensate Promotopia for such
20 acts of infringement, and to increase the damages to three times the amount
21 found or assessed in accordance with 35 U.S.C. § 284;
- 22 (d) decree that this case is an "exceptional case" and award Promotopia its reasonable
23 attorney's fees in accordance with 35 U.S.C. § 285;
- 24 (e) award Promotopia interest and costs; and
- 25 (f) award Promotopia such other and further relief as is just and proper.
- 26
27
28

JURY DEMAND

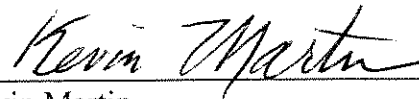
Plaintiff hereby demands a trial by jury of all issues so triable.

Respectfully submitted,

Date: April 15th, 2008

RANDICK O'DEA & TOOLIATOS, LLP

By:



Kevin Martin

Attorneys for Plaintiff



US00D500657S

(12) **United States Design Patent**
Scimone

(10) **Patent No.:** **US D500,657 S**
(45) **Date of Patent:** **** Jan. 11, 2005**

(54) **CD OPENER AND SINGLE SHEET PAPER CUTTER**

(76) **Inventor:** **Thomas John Scimone, 1658 Hicks Ave., San Jose, CA (US) 95125**

(**) **Term:** **14 Years**

(21) **Appl. No.:** **29/162,864**

(22) **Filed:** **Jun. 22, 2002**

(51) **LOC (7) Cl. 08-03**

(52) **U.S. Cl. D8/98; D19/65**

(58) **Field of Search D8/98, 102, 103, D8/104, 99; D19/35, 36, 65, 72, 86, 99, 100; D21/656; 30/2, 287, 289, 294, 280, 310, 319, DIG. 3**

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* cited by examiner

Primary Examiner—Martie K. Holtje

(74) *Attorney, Agent, or Firm*—Paul R. Martin

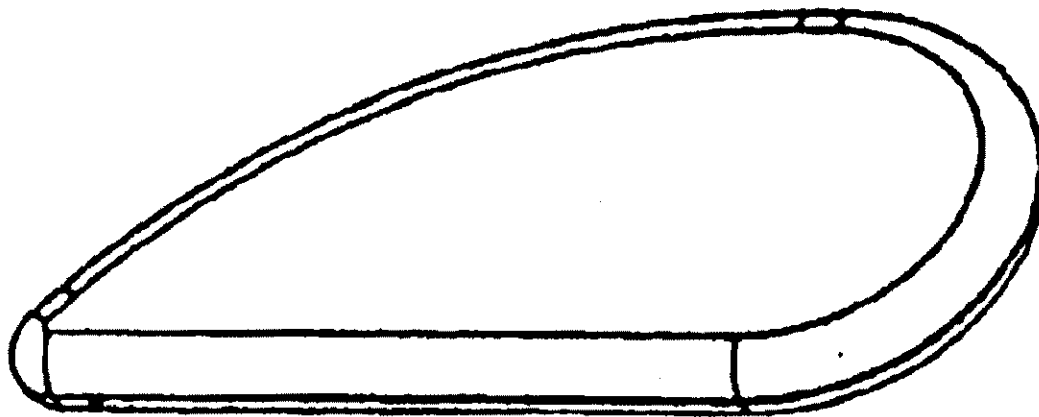
(57) **CLAIM**

The ornamental design for a CD opener and single sheet paper cutter, as shown and described.

DESCRIPTION

FIG. 1 is a bottom perspective view of a CD opener and single sheet paper cutter showing my new design;
FIG. 2 is a top perspective view thereof;
FIG. 3 is a side elevational view thereof;
FIG. 4 is an enlarged fragmentary view showing the cutting blade within the portion indicated by arrows 4—4 in FIG. 3; and,
FIG. 5 is a front elevational view thereof.

1 Claim, 1 Drawing Sheet



EKA

U.S. Patent

Jan. 11, 2005

US D500,657 S

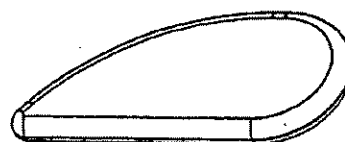


Fig. 1



Fig. 4

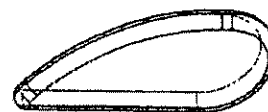


Fig. 2

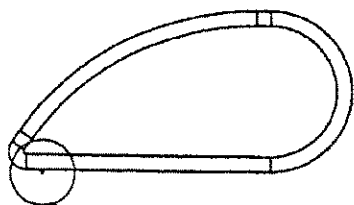


Fig. 3

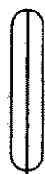


Fig. 5

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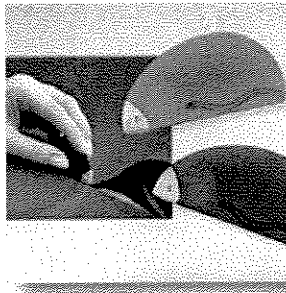
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